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| 9 | Attorneys for Complainant | | |
| 10 | BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER A FEATIRS | | |
| 11 | DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA | | |
| 12 | In the Matter of the Accusation Against: | Case No. 2009-216 | |
| 13 | JULIE NICOLE MIRISE | ACCUSATION | |
| 14 | 7409 River Highlands Drive Fisher, Indiana 46038 | ACCUSATION | |
| 15 | Registered Nurse License No. 686787 | | |
| 16 | Respondent. | | |
| 17 | | J · | |
| 18 | Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges: | | |
| 19 | <u>PARTIES</u> | | |
| 20 | 1. Complainant brings this Accusation solely in her official capacity as the | | |
| 21 | Executive Officer of the Board of Registered Nursing ("Board") Department of Consumer | | |
| 22 | Affairs. | | |
| 23 | Registered Nurse License | | |
| 24 | 2. On or about August 17, 2006, the Board issued Registered Nurse License | | |
| 25 | Number 686787 to Julie Nicole Mirise ("Respondent"). The registered nurse license expired on | | |
| 26 | December 31, 2007, and has not been renewed. | | |
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| 1 | <u>JURISDICTION</u> | |
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| 2 | 3. Section 2750 of the Business and Professions Code ("Code") provides, in | |
| 3 | pertinent part, that the Board may discipline any licensee, including a licensee holding a | |
| 4 | temporary or an inactive license, for any reason provided in Article 3 (commencing with Code | |
| 5 | section 2750) of the Nursing Practice Act. | |
| 6 | 4. Code section 2764 provides, in pertinent part, that the expiration of a | |
| 7 | license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding | |
| 8 | against the licensee or to render a decision imposing discipline on the license. Under Code | |

STATUTORY PROVISIONS

section 2811, subdivision (b), the Board may renew an expired license at any time within eight

5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct...,
- (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.
 - 6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

REGULATORY PROVISION

California Code of Regulations, title 16, section ("Regulation") 1442 7.

states:

As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.

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years after the expiration.

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COST RECOVERY

8. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUG

9. "Fentanyl" is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (c)(8), and a dangerous drug under Code section 4022 in that under federal or state law it requires a prescription.

BACKGROUND

10. On September 3, 2006, Respondent was on duty as a registered nurse in the Pediatric Intensive Care Unit at Rady Children's Hospital in San Diego, California. She was providing care to an infant weighing 3.35 kg. The infant required an echocardiogram, which necessitated sedation.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

- 11. Respondent is subject to discipline under Code section 2761, subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about September 3, 2006, while on duty as a registered nurse at Rady Children's Hospital, San Diego, California, Respondent committed acts constituting gross negligence, as defined in California Code of Regulations, section 1442, as follows:
- a. Respondent failed to follow the "5 Rights" of medication administration before she administered 30 mcg of the controlled substance Fentanyl to the infant referenced in paragraph 11, above, instead of the ordered dose of 3 mcg of Fentanyl.
- b. Following the medication error set forth in subdivision a, above,
 Respondent then falsified the original physician's order by adding a zero after the number 3 to
 make the physician's order appear to have been 30 mcg of Fentanyl instead of 3 mcg of Fentanyl.

SECOND CAUSE FOR DISCIPLINE 1 (Falsify Hospital Records) 2 Respondent is subject to discipline under Code section 2762, subdivision 3 12. (e), for unprofessional conduct, in that on or about September 3, 2006, while on duty as a 4 registered nurse at Rady Children's Hospital, San Diego, California, Respondent falsified 5 the medical record of the infant patient, as more particularly set forth in paragraph 12, 6 7 subparagraph b, above. THIRD CAUSE FOR DISCIPLINE 8 9 (Unprofessional Conduct) Respondent is subject to discipline under Code section 2761, 10 13. subdivision (a), on the grounds of unprofessional conduct, as more particularly set forth in 11 12 paragraphs 12 and 13, above. **PRAYER** 13 WHEREFORE, Complainant requests that a hearing be held on the matters herein 14 alleged, and that following the hearing, the Board of Registered Nursing issue a decision: 15 16 1. Revoking or suspending Registered Nurse License Number 686787, issued 17 to Julie Nicole Mirise; 2. Ordering Julie Nicole Mirise to pay the Board of Registered Nursing 18 the reasonable costs of the investigation and enforcement of this case, pursuant to Code 19 20 section 125.3; and,

DATED: 3/23/09

3.

RUTH ANN TERRY, M.P.H., R.N. Executive Officer

Taking such other and further action as deemed necessary and proper.

Board of Registered Nursing

Department of Consumer Affairs

State of California Complainant

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